

S T A T E O F N E W Y O R K

1696--A

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the disclosure of social security numbers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The general business law is amended by adding a new section
2 399-ddd to read as follows:
3 S 399-DDD. DISCLOSURE OF SOCIAL SECURITY NUMBER. 1. AS USED IN THIS
4 SECTION, "SOCIAL SECURITY ACCOUNT NUMBER" SHALL INCLUDE THE NUMBER
5 ISSUED BY THE FEDERAL SOCIAL SECURITY ADMINISTRATION AND ANY NUMBER
6 DERIVED FROM SUCH NUMBER. SUCH TERM SHALL NOT INCLUDE ANY NUMBER THAT
7 HAS BEEN ENCRYPTED.
8 2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION, NOT
9 INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, SHALL REQUIRE AN
10 INDIVIDUAL TO DISCLOSE OR FURNISH HIS OR HER SOCIAL SECURITY ACCOUNT
11 NUMBER, FOR ANY PURPOSE IN CONNECTION WITH ANY ACTIVITY, OR TO REFUSE
12 ANY SERVICE, PRIVILEGE OR RIGHT TO AN INDIVIDUAL WHOLLY OR PARTLY
13 BECAUSE SUCH INDIVIDUAL REFUSES TO DISCLOSE OR FURNISH SUCH NUMBER,
14 UNLESS ONE OF THE EXCEPTIONS ENUMERATED IN SUBDIVISION THREE OF THIS
15 SECTION APPLIES.
16 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IN THE FOLLOWING
17 INSTANCES:
18 (A) THE INDIVIDUAL CONSENTS TO THE ACQUISITION OR USE OF HIS OR HER
19 SOCIAL SECURITY ACCOUNT NUMBER.
20 (B) THE SOCIAL SECURITY ACCOUNT NUMBER IS EXPRESSLY REQUIRED BY FEDER-
21 AL, STATE, OR LOCAL LAW OR REGULATION.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 (C) THE SOCIAL SECURITY ACCOUNT NUMBER IS TO BE USED FOR INTERNAL
2 VERIFICATION OR FRAUD INVESTIGATION.

3 (D) THE SOCIAL SECURITY ACCOUNT NUMBER IS TO BE USED FOR ANY BUSINESS
4 FUNCTION PERMITTED OR ALLOWED UNDER THE GRAMM LEACH BLILEY ACT, P.L.
5 106-102 (1999).

6 (E) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH
7 A REQUEST FOR CREDIT OR A CREDIT TRANSACTION INITIATED BY THE CONSUMER
8 OR IN CONNECTION WITH A LAWFUL REQUEST FOR A CONSUMER REPORT OR INVESTI-
9 GATIVE CONSUMER REPORT, AS SUCH TERMS ARE DEFINED IN SECTION THREE
10 HUNDRED EIGHTY-A OF THIS CHAPTER.

11 (F) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH
12 A DEPOSIT ACCOUNT OR AN INVESTMENT.

13 (G) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR PURPOSES OF
14 EMPLOYMENT, INCLUDING IN THE COURSE OF THE ADMINISTRATION OF A CLAIM,
15 BENEFIT, OR PROCEDURE RELATED TO THE INDIVIDUAL'S EMPLOYMENT BY THE
16 PERSON, INCLUDING THE INDIVIDUAL'S TERMINATION FROM EMPLOYMENT, RETIRE-
17 MENT FROM EMPLOYMENT, INJURY SUFFERED DURING THE COURSE OF EMPLOYMENT,
18 OR TO CHECK ON AN UNEMPLOYMENT INSURANCE CLAIM OF THE INDIVIDUAL.

19 (H) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR PURPOSES OF
20 TAX COMPLIANCE.

21 (I) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR THE PURPOSE
22 OF:

23 I. THE COLLECTION OF CHILD OR SPOUSAL SUPPORT;

24 II. DETERMINING WHETHER AN INDIVIDUAL HAS A CRIMINAL RECORD; OR

25 III. BLOOD OR ORGAN DONATION.

26 (J) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH
27 ANY INTERACTION WITH A GOVERNMENTAL LAW ENFORCEMENT AGENCY OR IS USED IN
28 CONJUNCTION WITH THE ENFORCEMENT OF A JUDGMENT OF A COURT OF COMPETENT
29 JURISDICTION BY A SHERIFF OR MARSHAL.

30 (K) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR THE PURPOSE OF
31 VERIFYING AN INDIVIDUAL'S IDENTITY OR AGE IN ORDER TO ALLOW SUCH INDIV-
32 VIDUAL TO OBTAIN ACCESS TO, OR ENROLL IN, A MARKETING PROGRAM THAT IS
33 RESTRICTED TO INDIVIDUALS OF A CERTAIN AGE.

34 (L) I. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY AN INDIVID-
35 UAL, FIRM, CORPORATION, OR OTHER ENTITY DOING BUSINESS PURSUANT TO A
36 FRANCHISE ISSUED BY A POLITICAL SUBDIVISION OF THE STATE OR A LICENSE,
37 FRANCHISE, CERTIFICATE OR OTHER AUTHORIZATION ISSUED BY THE NEW YORK
38 STATE PUBLIC SERVICE COMMISSION.

39 II. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY AN INDIVIDUAL,
40 FIRM, CORPORATION, OR OTHER ENTITY REGULATED BY THE NEW YORK STATE
41 PUBLIC SERVICE COMMISSION, THE FEDERAL COMMUNICATIONS COMMISSION, OR THE
42 FEDERAL ENERGY REGULATORY COMMISSION.

43 III. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY A BANKING
44 INSTITUTION, AS DEFINED IN SECTION NINE-F OF THE BANKING LAW, OR ONE OF
45 ITS AFFILIATES.

46 4. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION
47 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE
48 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL
49 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
50 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH
51 VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR
52 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN
53 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND
54 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
55 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
56 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS

1 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE
2 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-
3 TION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY
4 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE
5 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-
6 TICE LAW AND RULES. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION
7 OF SUBDIVISION TWO OF THIS SECTION HAS OCCURRED, THE COURT SHALL IMPOSE
8 A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS. THE SECOND
9 OFFENSE AND ANY OFFENSE COMMITTED THEREAFTER SHALL BE PUNISHABLE BY A
10 CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

11 5. ANY PERSON WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF THIS
12 SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAW-
13 FUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR
14 FIFTY DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT
15 MAY, IN ITS DISCRETION, INCREASE THE AWARD OF DAMAGES TO AN AMOUNT NOT
16 TO EXCEED THREE TIMES THE ACTUAL DAMAGES UP TO ONE THOUSAND DOLLARS, IF
17 THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THIS
18 SECTION. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING
19 PLAINTIFF.

20 6. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHALL BE
21 DEEMED TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION IF SUCH PERSON,
22 FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHOWS, BY A PREPONDERANCE
23 OF THE EVIDENCE, THAT THE VIOLATION WAS NOT INTENTIONAL AND RESULTED
24 FROM A BONA FIDE ERROR MADE NOTWITHSTANDING THE MAINTENANCE OF PROCE-
25 DURES REASONABLY ADOPTED TO AVOID SUCH ERROR.

26 S 2. This act shall take effect on the one hundred twentieth day after
27 it shall have become a law.